

IN THE UNITED STATES DISTRICT COURT
 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NR 2421
 (Inmate Number)

MARCELLUS RO. JONES
 (Name of Plaintiff)

1100 PIKE ST
 (Address of Plaintiff)

HUNTINGDON P.A. 16654-1112

vs.

JOHN WETZEL ET AL.

(Names of Defendants)

13-1400
 (Case Number)

COMPLAINT

FILED
 SCRANTON

MAY 22 2013

Per [Signature]
 DEPUTY CLERK

TO BE FILED UNDER: ☒ 42 U.S.C. § 1983 - STATE OFFICIALS
☐ 28 U.S.C. § 1331 - FEDERAL OFFICIALS

I. Previous Lawsuits

- A. If you have filed any other lawsuits in federal court while a prisoner please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:

MARCELLUS RO. JONES V. SAYLER ET AL. 3:12-CV-0487
I DONT KNOW WHICH JUDGE THE CASE WAS ASSIGNED TO BUT I
BELIEVE IT TO BE JUDGE MANVELY

II. Exhaustion of Administrative Remedies

- A. Is there a grievance procedure available at your institution?
☒ Yes ☐ No

- B. Have you filed a grievance concerning the facts relating to this complaint?
☒ Yes ☐ No

If your answer is no, explain why not _____

- C. Is the grievance process completed? ☒ Yes ☐ No

III. Defendants

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use Item B for the names, positions and places of employment of any additional defendants.)

A. Defendant JOHN WETZEL is employed
as SECRETARY/HEAD OF THE P.A.D.O.C. HEADQUARTERS @ 1920 TECHNOLOGY PARKWAY
MECHANICSBURG P.A. 17050

B. Additional defendants DORINA VARNER IS THE CHIEF GRIEVANCE OFFICER @ 1920

TECHNOLOGY PARKWAY MECHANICSBURG P.A. 17050; TABB BICKELL IS THE WARDEN/SUPERINTENDENT
K. WALTERS & HARRIS ARE CAPTAINS FOGLE IS A LIEUTENANT & BOAL LONG CHERRY &
NELSON ARE CORRECTIONS OFFICERS ("C.O.S.") AT S.C.I. HUNTINGDON ALONG WITH MEDICAL SUPERVISOR
MARY LOU SHAWALTERS

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

1. ON OR ABOUT MAY 19, 2011 I WAS SUBJECTED TO CRUEL & UNUSUALLY PUNISHING
TREATMENT WHEN LIEUTENANT FOGLE ORDERED BOAL LONG CHERRY & NELSON TO SPRAY
ME WITH EXCESSIVE AMOUNTS OF PEPPER "O.C." SPRAY CAUSING ME TO FALL UNCONSCIOUS
TABB BICKELL MARY-LOU SHAWALTERS CAPTAINS K. WALTERS & HARRIS GAVE FOGLE &
2. HIS SUBORDINATE STAFF MEMBER APPROVAL & AUTHORIZATION TO SPRAY ME
IN DELIBERATE INDIFFERENCE TO MY SEVERELY ASTHMATIC MEDICAL CONDITION & MY
MENTAL HEALTH DISORDERS FURTHER JOHN WETZEL & DORINA VARNER THRU
PREJUDICE & CALLOUS INDIFFERENCE IGNORED MY NUMEROUS LETTERS & THE GRIEVANCE
3. I FILLED NOTIFYING THEM OF MY COMPLAINTS

V. Relief

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

1. I NEED THE COURT(S) TO ISSUE INJUNCTIONS & DECLARATORY RELIEF ALONG WITH PUNITIVE & COMPENSATORY DAMAGES AS AWARDED FOR P.A.D.'00 STATE VIOLATIONS OF MY CONSTITUTIONAL RITES

2.

3.

Signed this 6TH day of MAY, 2013.

MARCILLUS O. JONES
(Signature of Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct.

MAY 6 2013
(Date)

MARCILLUS O. JONES
(Signature of Plaintiff)

MARCELLUS B. JONES,
PLAINTIFF,
v.

JOHN WEZZEL ET AL;
DEFENDANT(S).

CIVIL COMPLAINT; #

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I. JURISDICTION & VENUE

1 THIS IS A CIVIL ACTION AUTHORIZED BY 42 U.S.C. SECTION 1983 TO REDRESS THE DEPRIVATION UNDER COLOR OF STATE LAW OF RIGHTS SECURED BY THE CONSTITUTION OF THE UNITED STATES. THE COURT HAS JURISDICTION UNDER 28 U.S.C. SECTION (1) 1331 & 1343 (A) (3). PLAINTIFF SEEKS DECLARATORY RELIEF PURSUANT TO 28 U.S.C. SECTION 2201 & 2202. PLAINTIFF'S CLAIMS FOR RELIEF IN VIOLATION OF A.D.A. ARE AUTHORIZED UNDER 42 U.S.C. SECTION 12131 (2) & 12131 (1). PLAINTIFF'S CLAIMS FOR INJUNCTIVE RELIEF ARE AUTHORIZED BY 28 U.S.C. SECTION 2283 & 2284 AND THE RULE 65 OF FED. R. CIV. P.

2 IN THE UNITED STATES DISTRICT COURT(S) FOR THE MIDDLE DISTRICT OF PENNSYLVANIA IS AN APPROPRIATE VENUE UNDER 28 U.S.C. SECTION 1391 (b) (2) BECAUSE IT IS WHERE THE EVENTS GIVEN TO THIS CLAIM OCCURRED

II. PLAINTIFF

3 MARCELLUS B. JONES, (PLAINTIFF) IS & WAS AT ALL TIMES MENTIONED & RELEVANT HEREIN A PRISONER OF THE STATE OF PENNSYLVANIA IN THE CUSTODY OF THE PENNSYLVANIA DEPARTMENT OF CORRECTIONS. HE IS CURRENTLY CONFINED IN SCI HUNTINGDON P.A. HUNTINGDON COUNTY

III. DEFENDANT(S)

4 DEFENDANT JOHN WEZZEL, IS THE COMMISSIONER OF THE PENNSYLVANIA DEPARTMENT OF THE CORRECTIONS. HE IS LEGALLY RESPONSIBLE FOR THE OVERALL OPERATION OF THE DEPARTMENT & EACH INDIVIDUAL INSTITUTION UNDER THEIR JURISDICTION

5 DEFENDANT BORINA VARKER IS & WAS AT ALL TIMES MENTIONED & RELEVANT HEREIN THE CHIEF GRIEVANCE OFFICER FOR THE PENNSYLVANIA DEPARTMENT CORRECTIONS. SHE IS LEGALLY RESPONSIBLE FOR PROVIDING REMEDIES TO GRIEVANCES. SHE VIOLATES OF LAWS & VIOLATIONS OF DEPT. OF CORRECTIONS POLICY.

6 DEFENDANT: BOAL, is a captain @ S.C.I. HUNTINGDON. BOAL IS RESPONSIBLE
FOR THE OPERATION OF S.C.I. HUNTINGDON & THE WELFARE OF ALL THE PRISONERS THERE.

7 DEFENDANT: K. WATERS, is a captain @ S.C.I. HUNTINGDON

8 DEFENDANT: HARRIS, is a captain @ S.C.I. HUNTINGDON

9 DEFENDANT: FOGLE, is a lieutenant @ S.C.I. HUNTINGDON

10 DEFENDANT: BOAL, is a corrections officer ("C.O.") @ S.C.I. HUNTINGDON

11 DEFENDANT: LONG, is a corrections officer ("C.O.") @ S.C.I. HUNTINGDON

12 DEFENDANT: CUNY, is a corrections officer ("C.O.") @ S.C.I. HUNTINGDON

13 DEFENDANT: NELSON, is a corrections officer ("C.O.") @ S.C.I. HUNTINGDON

14 DEFENDANT: MARY-LOU SNOWACERS (?) is the head medical supervisor for the medical
DEPARTMENT @ S.C.I. HUNTINGDON

EACH DEFENDANT IS SUED INDIVIDUALLY & IN HIS OR HER OFFICIAL CAPACITY AT ALL TIMES MENTIONED
- @ IN THIS COMPLAINT EACH DEFENDANT ACTED UNDER COLOR OF STATE LAW

IV. COMPLAINT

15 MARCELLUS B. JONES, (PLAINTIFF), HEREBY COMPLAINS AGAINST DEFENDANT(S) CAPTIONED ABOVE

V. BACKGROUND

16 SOMETIME DURING THE WEEK OF MAY 9, 2011, IN THE EARLY MORNING HOURS, S.C.I. HUNTINGDON
RESTRICTED HOUSING UNIT ("R.H.U.") STAFF ANNOUNCED OVER THE LOUD SPEAKER THAT "BASICS"
(I.E. BASIC HYGIENE SUPPLIES TOOTH PASTE SOAP ETC) ARE BEING GIVEN OUT. AS JONES STOOD AT
HIS CELLS' DOOR AS ORDERED WAITING TO BE GIVEN BASICS, BOAL WHO WAS ASSIGNED
THE DUTY OF GIVING OUT BASICS THIS DAY STOPPED IN FRONT OF THE CELL JONES WAS HOUSED
IN. & TOOK THE LOCKS OFF OF THE FEED APERTURE IN ORDER TO GIVE JONES THE BASICS
THAT HE NEEDED. AT THIS TIME BOAL FOR HIS OWN UNKNOWN MALICIOUS REASONS
RE-LOCKED THE LOCKS OF THE CELLS FEEDING APERTURE & STATED TO JONES "YOU'RE NOT
GETTING SHIT BITCH" & WALKED AWAY. JONES THEN REQUESTED TO SPEAK TO A LIEUTENANT
IN ORDER TO HAVE THE PROBLEM OF NOT GETTING ANY HYGIENE SUPPLIES FIXED. JONES EVENTUALLY
SPOKE TO FOGLE & HE WAS TOLD HE WAS NOT GETTING SHIT. SO JONES THEN ASKED
IF HE COULD SPEAK WITH A CAPTAIN OR ANOTHER OF FOGLE'S SUPERVISORS, TO WHICH
FOGLE STATED "YOU BETTER SHUT THE FUCK UP UNLESS U WANT TO GET PAINTED
ORANGE (MEANING EXCESSIVE USE OF PEPPER SPRAY)". JONES THEN COVERED HIS CELLS
DOOR WITH HIS TOWEL IN ORDER TO HAVE ONE OF FOGLE'S SUPERVISORS ON DUTY
ADDRESS HIS COMPLAINT. JONES WAS THEN "PAINTED ORANGE", AS HE WAS SPRAYED
WITH OVERWHELMING AMOUNTS OF "O.C." PEPPER SPRAY UNTIL HE WAS RENDERED UN-
CONSCIOUS - SEMI-CONSCIOUS, BY LONG FOGLE CHERY BOAL
& NELSON. JONES WAS THEN PARADED NAKED THRU S.C.I. HUNTINGDON'S
R.H.U. TO HUMILIATE, EMBARRASS & PSYCHOLOGICALLY TRAUMATIZE HIM.
HE WAS CARRIED NUDE IN FRONT OF PENALTY MEDICAL STAFF & OTHER PRISONERS

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AS A RESULT OF THE EXCESSIVE MEDICAL & O.D. USE AGAINST HIM BY FOBLE, BOAL, LONG ETC. SONES WAS LEFT TO SUFFER HORRIFIC PAIN AS THE COMBINATION OF TOO MUCH O.C. & SONES' SEVERE WELL DOCUMENTED ASTHMA CONDITION LEFT HIM COMATOSE

VI. FACTS

17 THAT ON THE DATE IN QUESTION SONES WAS IN S.C.'S HUNTINGDON'S R.H.U. & COMPLAINED WITH ALL ORDERS GIVEN IN EXPECTATION OF RECEIVING HYGIENE SUPPLIES

18 THAT FOR REASONS BOAL DENIED SONES ANY HYGIENE SUPPLIES

19 THAT SONES REPORTED THIS DENIAL TO FOBLE WHO IN FURTHERANCE OF THIS UNWARRANTED DENIAL REFUSED SONES ANY OTHER REMEDIES

20 THAT SONES LACK OF CONSCIOUSNESS WAS CAUSED BY FOBLE BOAL LONG CHERRY NEGON'S EXCESSIVE O.C. USAGE & THAT BICKEL, K. WALTER & HARRIS AUTHORIZED THIS EXCESSIVE O.C. USAGE

21 THAT SONES WAS UNDER THE INFLUENCE OF PSYCHOTROPIC MEDICATIONS FOR HIS MENTAL HEALTH DISORDERS

22 THAT MEDICAL SUPERVISOR MARY-LOU SHOULTEYS APPROVED OF O.C. USAGE AGAINST SONES CAUSING HIM TO PASS OUT FROM ASTHMA SUFFERAGE

VII. LEGAL CLAIMS

23 (1) CRUEL & UNUSUAL PUNISHMENT (OBJECTION STANDARD)

24 THAT SONES WAS & IS BEING SUBJECTED TO CRUEL & UNUSUAL PUNISHMENT IN VIOLATION OF THE EIGHTH AMENDMENT TO THE U.S. CONSTITUTION & ART. I § 13 OF THE P.R. CONSTITUTION BY USING EXCESSIVE FORCE SUBJECTING HIM TO UNNECESSARY WANTON INFLECTION OF PHYSICAL & MENTAL PAIN VIOLATING CIVILIZED STANDARDS OF HUMAN DECENCY. THRU THEIR ACTIONS & OMISSIONS THE DEFENDANTS HAVE BEEN & CONTINUES WITHOUT MERCY TO, SUBJECT SONES TO TERRORISTIC TORTUROUS CONFINEMENT THESE PUNISHMENTS/TORTURE INCLUDES BUT ARE NOT LIMITED TO:

THE PLAINTIFF DOES NOT USE THE TERM "TORTURE" LIGHTLY. IN FACT THE CONDUCT OF DEFENDANTS FOBLE BOAL CHERRY LONG & NELSON MEETS THE LEGAL DEFINITION OF "TORTURE" WITHIN THE FEDERAL TORTURE ACT:

(1) "TORTURE" MEANS AN ACT COMMITTED BY A PERSON ACTING UNDER THE COLOR OF LAW SPECIFICALLY INTENDED TO INFLECT SEVERE PHYSICAL OR MENTAL PAIN OR SUFFERING.

(2) "SEVERE MENTAL PAIN OR SUFFERING" MEANS THE PROLONGED MENTAL HARM CAUSED BY OR RESULTING FROM-- (A) THE INTENTIONAL INFLECTION OR THREATENED INFLECTION OF SEVERE PHYSICAL PAIN OR SUFFERING

29 U.S.C. § 2340 A (a)

- (i) ASSAULTING JONES
- (ii) USING EXCESSIVE FORCE AGAINST JONES BEYOND HUMAN DECENCY STANDARDS
- (iii) CARRYING JONES NUDE THRU THE R.H.U. CAUSING HIM TO SUFFER CONTINUOUS RIDICULE FROM OTHER PRISONERS & SEC HUNTINGDON STAFF

25 (2) EXHAUSTION OF ADMINISTRATIVE REMEDIES (SUBJECTIVE STANDARD - DELIBERATE INDIFFERENCE)

- (iv) JONES HAS FILED & APPEALED THE PRISON'S GRIEVANCE REQUIREMENT TO NO AVAIL
- (v) JONES ALSO HAS SENT NUMEROUS LETTERS TO JOHN WETZEL, JAMES BARNACLE & OTHER P.A. O'C STAFF & HAS NOT GOTTEN ANY RELIEF YET
- (vi) JONES NOTIFIED TABB BICKELL DEPUTIES ECKERT & GARWIN ETC. TO INFORM SEC HUNTINGDON'S ADMINISTRATIVE SUPERVISOR OF IMPORTANT WITNESS WITH INFORMATION RELEVANT TO THIS MATTER

VIII. ~~EMOTIONAL~~ EMOTIONAL & MENTAL INJURY

26 JONES AS A RESULT OF THIS UNNECESSARY WANTON ABUSE HAS BECOME EXTREMELY DEPRESSED EMOTIONALLY UNSTABLE & PERMANENTLY SUICIDAL DUE TO THE DEFENDANTS' UNMERCIFUL INFILTRATION OF PHYSICAL MENTAL & EMOTIONAL ABUSE OF HIM

27 PLAINTIFF AVERS THAT A "SPECIAL RELATIONSHIP" EXISTS BETWEEN JOHN WETZEL, DORNA VARNER, TABB BICKELL, MARY-LOU SHOWALTERS, K. WALTERS & HARRIS THESE OFFICIALS WERE CHARGED A DUTY ENSURING A SAFE PRISON ENVIRONMENT

28 THESE DEFENDANTS ARE LIABLE FOR THE UNCONSTITUTIONAL ACTS OF THE DEFENDANT O'C'S INVOLVED IN THE EVENTS COMPLAINED OF DUE TO THEIR NEGLIGENCE REGARDING LAWS, PRO MULGATION & ENFORCEMENT OF THE RULES REGULATIONS & POLICIES PRACTICES CUSTOMS OR USAGES WHICH WERE IN EFFECT PRIOR & AT THE TIME OF THE EVENTS IN QUESTION

(A) IN DELIBERATE INDIFFERENCE TO & IN RECKLESS DISREGARD OF THE PRISON POPULATION ^{INCLUDING BUREAUCRATS} DEFENDANT(S) JOHN WETZEL TABB BICKELL K. WALTERS MARY-LOU SHOWALTERS & HARRIS GAVE THEIR APPROVAL THRU SILENT CONSENT &/OR ACQUIESCENCE TO THEIR SUBORDINATE STAFF MEMBERS CONDONING THE EXCESSIVE UNNECESSARY USE OF FORCE USED AGAINST JONES IN VIOLATION OF HIS EIGHTH AMENDMENT RITES

(B) IN DELIBERATE INDIFFERENCE TO & IN RECKLESS DISREGARD OF THE THREAT THE OFFICIAL PRACTICE & CUSTOM OF O'C USAGE POSED TO JONES' ~~SAFETY~~ HEALTH SAFETY & WELFARE AS AN AMERICAN WITH DISABILITIES THESE DEFENDANTS JOHN WETZEL DORNA VARNER TABB BICKELL MARY-LOU SHOWALTERS K. WALTERS & HARRIS CONSENTED TO & AUTHORIZED THE EXCESSIVE SPRAYING OF JONES WHO IS MENTALLY HANDICAPPED

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(c) IN DELIBERATE INDIFFERENCE TO & IN RECKLESS DISREGARD OF THE POSSESSION OF CERTAIN POWERS THE DEFENDANT(S) WERE CLOAKED UNDER COLOR OF LAW & ABUSED SAID POWER BY HAVING JONES EXCESSIVELY SPRAYED WITH PEPPER "O.C." SPRAY BY THEIR SUBORDINATES

(d) IN DELIBERATE INDIFFERENCE TO & IN RECKLESS DISREGARD OF THE UNITED STATES CONSTITUTION & PENNSYLVANIA STATE LAW THE DEFENDANT(S) WHETHER THRU SANCTIONING BY ACT(S) OR OMISSION OR THE LITERAL PHYSICAL ATTACK WERE, IN VIOLATION OF JONES CONSTITUTIONAL PRIVILEGES IMMUNITIES & RITES

JONES RECITES & INCORPORATES PARAGRAPHS 1-28

29 WHEREFORE JONES AVERS THAT THE DEFENDANT(S) VIOLATED HIS 1ST 8TH & 14TH AMENDMENT RITES THRU APPROVAL OF THEIR SUBORDINATES PERSISTENT TORTURE & ABUSIVE BEHAVIOR WHICH AMOUNTED TO EXTREME GROSS NEGLIGENCE IN THE LEAST & AT WORST A VIOLATION OF THE FEDERAL TORTURE ACT AS DEFINED ABOVE

30 JONES HAS NO PLAN, ADEQUATE OR COMPLETE REMEDY AT LAW TO REDRESS THE WRONGS DESCRIBED HEREIN JONES HAS BEEN & WILL CONTINUE TO BE IRREPARABLY INJURED IN THE CONDUCT OF THE DEFENDANTS UNLESS THE COURT(S) GRANT THE DECLARATORY & INJUNCTIVE RELIEF WHICH JONES SEEKS

1X. PRAYER FOR RELIEF

31 WHEREFORE JONES RESPECTIVELY & SO PRAYS THAT THE COURT(S) ENTER JUDGMENT GRANTING PRAYERS

32 A DECLARATION THAT THE ACTS & OMISSIONS DESCRIBED HEREIN VIOLATED JONES RITES UNDER THE CONSTITUTION & LAWS OF THE UNITED STATES

33 A PRELIMINARY & PERMANENT INJUNCTION ORDERING DEFENDANT(S): JOHN WETZEL DORIAN VARNER & TERRY BICKELL TO TRANSFER JONES ULTIMATELY REMOVING JONES FROM ANY & ALL POSSIBLE FUTURE ATTACKS STEMMING FROM RETALIATION

34 A RESTRAINING ORDER STOPPING THE DEFENDANT(S) FROM SPRAYING OR HAVING JONES SPRAYED ALONG WITH DEFENDANT(S) BEING RESTRAINED FROM TAKING JONES' PROPERTY (IE LEGAL ETC.)

35 COMPENSATORY DAMAGES IN THE AMOUNT OF \$ 95,000⁰⁰ AGAINST ~~THE~~ DEFENDANT(S) JOINTLY & SEVERALLY

36 PUNITIVE DAMAGES IN THE AMOUNT OF \$ 2,500⁰⁰ AGAINST EACH DEFENDANT

37 A JURY TRIAL ON ALL ISSUES TRIABLE BY JURY

38 PLAINTIFF'S COST IN THIS SUIT

39 ANY ADDITIONAL RELIEF THE COURT(S) JUST PROPER & EQUITABLE

DATE 5-6-2013

RESPECTFULLY SUBMITTED

MARCELLUS A. JONES

KR 2421

S.C.I. @ HUNTINGDON

1100 PIKE ST

HUNTINGDON PA 16854

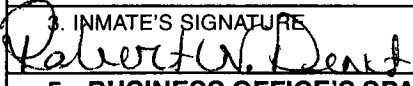
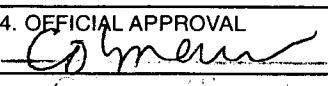
X^o VERIFICATION

41 I HAVE READ THE FOREGOING COMPLAINT & HEREIN VERIFY THAT THE MATTERS ALLEGED UPON INFORMATION & BELIEF & AS TO THOSE I BELIEVE THEM TO BE TRUE I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE & CORRECT

42 EXECUTED @ HUNTINGDON COUNTY/ PENNA.

ON THIS: THE 6TH DAY OF MAY 2013

MARCELLUS A. JONES

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Number PK 242
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Huntingdon, PA 16654-1112

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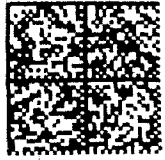
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